

People v. Weberman,

Kings County Indictment 1589/2011 (attached)

T. 96, 870-72, 1069 (c/w's date of birth);
T. 110-14, 712-13, 887-88, 946-47, 1066 (c/w
was 12 when defendant started sexually
abusing her);
T. 130 (c/w turned 14 on 12/5/08);
T. 100 (c/w identified defendant)

2d-Degree Crim. Sex Act

Counts 3-14

Penis to Mouth

c/w less than 15

Indictment Count 3

12/5/07-1/31/08

T. 129-30, referring back to type of
conduct testified to at T. 127-28

Indictment Count 4

2/1/08-3/31/08

T. 129-30, referring back to type of
conduct testified to at T. 127-28

Indictment Count 5

4/1/08-5/31/08

T. 129-30, referring back to type of
conduct testified to at T. 127-28

Indictment Count 6

6/1/08-6/30/08

T. 129-30, referring back to type of
conduct testified to at R.D: 127-28

Indictment Count 7

9/1/08-9/30/08

T. 130, referring back to type of
conduct testified to at R.D: 127-28

Indictment Count 8

10/1/08-12/4/08

T. 130-31, referring back to type of
conduct testified to at R.D: 127-28

Indictment Count 9

12/5/08-1/31/09

T. 130-31, referring back to type of
conduct testified to at R.D: 127-28

Indictment Count 10
2/1/09-3/31/09

T. 130-31, referring back to type of
conduct testified to at R.D: 127-28

Indictment Count 11
4/1/09-5/31/09

T. 150-54, 156-58, 197-98

Indictment Count 12
6/1/09-6/30/09

T. 131, referring back to type of
conduct testified to at R.D: 127-28

Indictment Count 13
9/1/09-9/30/09

T. 132-34

Indictment Count 14
10/1/09-12/4/09

T. 132-34

2d-Degree Crim. Sex Act
Counts 15-16
Penis to Mouth
c/w less than 17

Indictment Count 15
12/5/09-1/31/10

T. 132, 134

Indictment Count 16
2/1/10-3/31/10

T. 132, 134, 163; see T. 106 (c/w was
not in school between 12/09 and 4/10,
and toward end of that period, c/w
worked in defendant's office)

Sexual Misconduct
Counts 17-30
Penis to Mouth
without c/w's consent

**These fourteen counts were NOT submitted to the jury. See
Verdict Sheet (appended), renumbered counts 17-59**

Indictment Count 17
12/5/07-1/31/08

T. 129-30, referring back to type of
conduct testified to at T. 127-28

Indictment Count 18

2/1/08-3/31/08

T. 129-30, referring back to type of conduct testified to at T. 127-28

Indictment Count 19

4/1/08-5/31/08

T. 129-30, referring back to type of conduct testified to at T. 127-28

Indictment Count 20

6/1/08-6/30/08

T. 129-30, referring back to type of conduct testified to at R.D: 127-28

Indictment Count 21

9/1/08-9/30/08

T. 130, referring back to type of conduct testified to at R.D: 127-28

Indictment Count 22

10/1/08-12/4/08

T. 130-31, referring back to type of conduct testified to at R.D: 127-28

Indictment Count 23

12/5/08-1/31/09

T. 130-31, referring back to type of conduct testified to at R.D: 127-28

Indictment Count 24

2/1/09-3/31/09

T. 130-31, referring back to type of conduct testified to at R.D: 127-28

Indictment Count 25

4/1/09-5/31/09

T. 150-54, 156-58, 197-98

Indictment Count 26

6/1/09-6/30/09

T. 131, referring back to type of conduct testified to at R.D: 127-28

Indictment Count 27

9/1/09-9/30/09

T. 132-34

Indictment Count 28

10/1/09-12/4/09

T. 132-34

Indictment Count 29

12/5/09-1/31/10

T. 132-34

Indictment Count 30

2/1/10-3/31/10

T. 132-34, 163; see T. 106 (c/w was not in school between 12/09 and 4/10, and toward end of that period, c/w worked in defendant's office)

2d-Degree Sexual Misconduct

Counts 31-37

Fingers to Vagina

c/w less than 14

Indictment Count 31
12/5/07-1/31/08

T. 129-30, referring back to type of conduct testified to at T. 124-25, 127

Indictment Count 32
2/1/08-3/31/08

T. 130-31, referring back to type of conduct testified to at R.D: 124-25, 127

Indictment Count 33
4/1/08-5/31/08

T. 129-30, referring back to type of conduct testified to at T. 124-25, 127

Indictment Count 34
6/1/08-6/30/08

T. 129-30, referring back to type of conduct testified to at R.D: 124-25, 127

Indictment Count 35
9/1/08-9/30/08

T. 130, referring back to type of conduct testified to at R.D: 124-25, 127

Indictment Count 36
10/1/08-12/4/08

T. 130-31, referring back to type of conduct testified to at R.D: 124-25, 127

Indictment Count 37
12/5/08-1/31/09

T. 130-31, referring back to type of conduct testified to at R.D: 124-25, 127

3d-Degree Sexual Misconduct

Counts 38-44

Fingers to Vagina

without c/w's consent

Indictment Count 38

2/1/09-3/31/09

T. 130-31, referring back to type of conduct testified to at R.D: 124-25, 127

Indictment Count 39

4/1/09-5/31/09

T. 150-54, 156-58, 197-98

Indictment Count 40

6/1/09-6/30/09

T. 131, referring back to type of conduct testified to at R.D: 124-25, 127

Indictment Count 41

9/1/09-9/30/09

T. 132-34

Indictment Count 42

10/1/09-12/4/09

T. 132-34

Indictment Count 43

12/5/09-1/31/10

T. 132-34

Indictment Count 44

2/1/10-3/31/10

T. 132-34, 160-61, 163; see T. 106 (c/w not in school between 12/09 and 4/10, and toward end of that period, c/w worked in defendant's office)

2d-Degree Sexual Abuse

Counts 45-46

Mouth to Breasts

c/w less than 14

These two counts were vacated on appeal

Indictment Count 45

12/5/07-1/31/08 The Appellate Division vacated defendant's conviction on this count for legally insufficient evidence. People v. Weberman, 134 A.D.3d 862 (2d Dep't 2015).

Indictment Count 46

2/1/08-3/31/08 The Appellate Division vacated defendant's conviction on this count for legally insufficient evidence. People v. Weberman, 134 A.D.3d 862 (2d Dep't 2015).

2d-Degree Sexual Abuse

Counts 47-50

Mouth to Breasts

c/w less than 14

Indictment Count 47

4/1/08-5/31/08 T. 129-30, referring back to type of conduct testified to at T. 127 (defendant took off her clothes and kissed her all over, touching her breasts and vagina)

Indictment Count 48

6/1/08-6/30/08 T. 129-30, referring back to type of conduct testified to at R.D: 127

Indictment Count 49

9/1/08-9/30/08 T. 130, referring back to type of conduct testified to at R.D: 127

Indictment Count 50

10/1/08-12/4/08 T. 130-31, referring back to type of conduct testified to at R.D: 127

3d-Degree Sexual Abuse
Counts 51-58
Mouth to Breasts
without c/w's consent

Indictment Count 51
12/5/08-1/31/09

T. 130-31, referring back to type of conduct testified to at R.D: 127

Indictment Count 52
2/1/09-3/31/09

T. 130-31, referring back to type of conduct testified to at R.D: 127

Indictment Count 53
4/1/09-5/31/09

T. 150-54, 156-58, 197-98

Indictment Count 54
6/1/09-6/30/09

T. 131, referring back to type of conduct testified to at R.D: 127

Indictment Count 55
9/1/09-9/30/09

T. 132-34

Indictment Count 56
10/1/09-12/4/09

T. 132-34

Indictment Count 57
12/5/09-1/31/10

T. 132-34

Indictment Count 58
2/1/10-3/31/10

T. 132-34; see also T. 106 (c/w was not in school between 12/09 and 4/10, and toward end of that period, c/w worked in defendant's office)

2d-Degree Sexual Abuse

Counts 59-64

Hand to Breasts

c/w less than 14

Indictment Count 59
12/5/07-1/31/08

T. 129-30, referring back to type of
conduct testified to at T. 124, 127

Indictment Count 60
2/1/08-3/31/08

T. 129-30, referring back to type of
conduct testified to at T. 124, 127

Indictment Count 61
4/1/08-5/31/08

T. 129-30, referring back to type of
conduct testified to at T. 124, 127

Indictment Count 62
6/1/08-6/30/08

T. 129-30, referring back to type of
conduct testified to at R.D: 124, 127

Indictment Count 63
9/1/08-9/30/08

T. 130, referring back to type of
conduct testified to at R.D: 124, 127

Indictment Count 64
10/1/08-12/4/08

T. 130-31, referring back to type of
conduct testified to at R.D: 124, 127

3d-Degree Sexual Abuse

Counts 65-72

Hand to Breasts

without c/w's consent

Indictment Count 65
12/5/08-1/31/09

T. 130-31, referring back to type of
conduct testified to at R.D: 124, 127

Indictment Count 66
2/1/09-3/31/09

T. 130-31, referring back to type of
conduct testified to at R.D: 124, 127

Indictment Count 67

4/1/09-5/31/09

T. 150-54, 156-58

Indictment Count 68

6/1/09-6/30/09

T. 131, referring back to type of conduct testified to at R.D: 124, 127

Indictment Count 69

9/1/09-9/30/09

T. 132-34

Indictment Count 70

10/1/09-12/4/09

T. 132-34

Indictment Count 71

12/5/09-1/31/10

T. 132-34

Indictment Count 72

2/1/10-3/31/10

T. 161, 163; see 396, 718; see also T. 106 (not in school between 12/09 and 4/10, and toward end of that period, c/w worked in defendant's office)

2d-Degree Sexual Abuse

Counts 73-78

Hand to Buttocks

c/w less than 14

These six counts were NOT submitted to the jury. See Verdict Sheet (appended)

Indictment Count 73

12/5/07-1/31/08

T. 129-30, referring back to type of conduct testified to at T. 127 (he touched, undressed, and kissed c/w all over)

Indictment Count 74

2/1/08-3/31/08

T. 129-30, referring back to type of conduct testified to at T. 127

Indictment Count 75

4/1/08-5/31/08

T. 129-30, referring back to type of conduct testified to at T. 127

Indictment Count 76
6/1/08-6/30/08

T. 129-30, referring back to type of
conduct testified to at R.D: 127

Indictment Count 77
9/1/08-9/30/08

T. 130, referring back to type of
conduct testified to at R.D: 127

Indictment Count 78
10/1/08-12/4/08

T. 130-31, referring back to type of
conduct testified to at R.D: 127

3d-Degree Sexual Abuse
Counts 79-81
Hand to Buttocks
without c/w's consent

These three counts were NOT submitted to the jury. See Verdict Sheet

Indictment Count 79
12/5/08-1/31/09

T. 130-31, referring back to type of
conduct testified to at R.D: 127

Indictment Count 80
2/1/09-3/31/09

T. 132-34

Indictment Count 81
4/1/09-5/31/09

T. 150-54, 156-58

3d-Degree Sexual Abuse
Count 82-86
Hand to Buttocks
without c/w's consent

These five counts were NOT submitted to the jury. See Verdict Sheet

Indictment Count 82
6/1/09-6/30/09

T. 131, referring back to type of
conduct testified to at R.D: 127

Indictment Count 83

9/1/09-9/30/09

T. 132-34

Indictment Count 84

10/1/09-12/4/09

T. 132-34

Indictment Count 85

12/5/09-1/31/10

T. 132-34

Indictment Count 86

2/1/10-3/31/10

T. 132-34

3d-Degree Sexual Abuse

Count 87

Penis to Vagina

without c/w's consent

Indictment Count 87

4/1/09-5/31/09

T. 150-54, 156-58, 197-98

The Sentence

The trial court imposed consecutive sentences only for counts 3-16 (Resp. Exh. O at A. 56-53).